



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## RESULTS OF MERRIMACK ZONING BOARD OF ADJUSTMENT WEDNESDAY, JULY 30, 2014

**Members present:** Fran L'Heureux, Phil Straight, Tony Pellegrino and Alternates Leonard Worster and Richard Conescu.

**Members absent:** Patrick Dwyer and Alternate Nathan Barry.

**Staff present:** Planning and Zoning Administrator Jillian Harris.

### 1. Call to Order.

*Fran L'Heureux called the meeting to order at 7:00 p.m. Fran L'Heureux designated Leonard Worster to sit for Patrick Dwyer.*

### 2. Roll Call.

*Tony Pellegrino led the pledge of allegiance. Richard Conescu read the preamble. Fran L'Heureux swore in members of the public who would be testifying.*

*Item #12 was taken up before items 3-11.*

12. **Convenient MD Urgent Care (petitioner) and KJB Ventures, LLC. (owner)** – Variance under Section 17.10.4(a) of the Zoning Ordinance to allow a 172.7 sf. wall sign whereas 134.50 sf. is permitted. The parcel is located at 4 Dobson Way in the C-2 (General Commercial) and Aquifer Conservation Districts. Tax Map 3D, Lot 003-03. Case # 2014-32.

*At the request of the petitioner, the Board voted 5-0-0 to continue this item to the August 27, 2014, Zoning Board of Adjustment meeting, in the Matthew Thornton Meeting Room at 7:00 PM, on a motion made by Tony Pellegrino and seconded by Phil Straight.*

*Fran L'Heureux stated that it is the policy of the Board to end the Zoning Board of Adjustment meetings at 10:30 PM. The Board voted 5-0-0 to extend the July 30, 2014, meeting past 10:30 PM if needed, on a motion made by Richard Conescu and seconded by Tony Pellegrino.*

3. **New Cingular Wireless PCS, LLC. (petitioner) and Alan & Erin Walsh (owners)** – Special Exception under Section 2.02.1(B)(3), Section 2.02.1(B)(1)(a-e), and Section 2.02.4(B)(21)(a) of the Zoning Ordinance to allow the construction of a Telecommunication Tower in the R (Residential) and Aquifer Conservation Districts. The parcel is located at 121 Joppa Road. Tax Map 6C, Lot 329. Case # 2014-16. **This item is continued from the May 28, 2014 and June 25, 2014 meetings.**

*Applicant was represented by: Brian Grossman, Anderson & Kreiger, LLC.*

*Public comment was received from:*

*Bill Barry, 3 Cardinal Court.*

*Nicole Tomaselli, 11 Knollwood Drive.*

***Charles Mower, 4 Depot Street.***

***Gregory Roberts, 9 Cardinal Court.***

***Michael Thompson, 99 Joppa Road.***

***Robin Warren, 12 Knollwood Drive.***

***Raquel Perez, 48 Bean Road.***

***Henry Richards, 6 Heritage Drive.***

***Thomas Maurice, 105 Joppa Road.***

***Daniel Szymanowski, 124 Joppa Road.***

***Brian Tomaselli, 11 Knollwood Drive.***

***Finlay Rothhaus, 14 Kittredge Lane.***

***Dick Debelis, 15 Knollwood Drive.***

***Peter Gagnon, 130 Bedford Road.***

***Bill Boyd, 139 Joppa Road.***

***Rodney Weaver, 142 Joppa Road.***

***Kathleen Cook, 6 Heritage Drive.***

***Anne Whitney, 130 Joppa Road.***

***Christine Adams, 4 Ridgewood Drive.***

***Elona Lucas, 60 Joppa Road.***

***Richard Gele, 9 Knollwood Drive.***

***Sherry Nassauer, 10 Woodbine Lane.***

***Roger Van Wert, 94 Joppa Road.***

***Bev Fulling, 116 Joppa Road.***

***Kenneth Page, 6 Ridgewood Drive.***

***Paul Fulling, 116 Joppa Road.***

***The Board voted 4-1-0 to deny the Special Exception, on a motion made by Phil Straight and seconded by Tony Pellegrino. Leonard Worster voted in the negative.***

***Item #13 was taken up before items 4-11***

- 13. Shawn Pacheco Professional Martial Arts Academy (petitioner) and G&G Scully, LLC. (owner) –** Special Exception under Section 2.02.3(C)(1) of the Zoning Ordinance to allow a commercial recreational use in the C-2 (General Commercial), PRD, Elderly and Aquifer Conservation Districts. The parcel is located at 370 D.W. Hwy. Tax Map 4D-3, Lot 001-01. Case # 2014-33.

***At the request of the petitioner, the Board voted 5-0-0 to continue this item to the August 27, 2014, Zoning Board of Adjustment meeting, in the Matthew Thornton Meeting Room at 7:00 PM, on a motion made by Phil Straight and seconded by Tony Pellegrino.***

4. **Thomas & Kathleen Benoit (petitioners and owners)** – Variance under Section 3.02.A of the Zoning Ordinance to permit the construction of a single family residence on an existing lot with 20 ft. of frontage whereas 250 ft. is required. The parcel is located on Woodbine Lane in the R (Residential) District. Tax Map 6B, Lot 186. Case # 2014-24.

*Applicant was represented by: Thomas Joseph Maynard, Benchmark Engineering.*

*Public comment was received from:*

*Larry Demers, 17 Woodbine Lane.*

*Lou Yelgin, 10 Woodbine Lane.*

*Gordon Hollis, 19 Profile Drive.*

*Raquel Perez, 48 Bean Road.*

*Sherry Nassauer, 10 Woodbine Lane.*

*Tom Worster, 34 Bean Road.*

*The Board voted 5-0-0 to grant the Variance for the frontage, on a motion made by Leonard Worster and seconded by Richard Conescu.*

5. **Raquel Perez (petitioner)** – Request for Re-Hearing regarding Case # 2014-17, in which the Board voted to deny the appeal of an administrative decision under Section 2.02.1(A)(3) of the Zoning Ordinance, that a dump trailer in the Residential District does not constitute external evidence of a Home Occupation. The parcel is located at 46 Bean Road in the R (Residential) District. Tax Map 6B, Lot 101. Case # 2014-25.

*The Board voted 4-1-0 to grant the Request for Re-hearing regarding Case # 2014-17, on a motion made by Phil Straight and seconded by Tony Pellegrino. Richard Conescu voted in the negative.*

6. **Matthew King (petitioner/owner)** – Special Exception under Section 2.02.2(C) of the Zoning Ordinance to allow a single family residence in the C-1 District. The parcel is located at 575 D.W. Highway in the C-1 (Limited Commercial) and Aquifer Conservation Districts and the Wellhead Protection Area. Tax Map 6D-1, Lot 102. Case # 2014-26.

*Applicant was represented by Matthew King, petitioner and owner.*

*There was no public comment.*

*The Board voted 5-0-0 to grant the Special Exception, on a motion made by Richard Conescu and seconded by Tony Pellegrino.*

7. **Matthew King (petitioner/owner)** – Variance under Section 3.05 of the Zoning Ordinance to allow the construction of a deck (36'x14') within 10 ft. of the side property line setback whereas 20 ft. is required. The parcel is located at 575 D.W. Highway in the C-1 (Limited Commercial) and Aquifer Conservation Districts and the Wellhead Protection Area. Tax Map 6D-1, Lot 102. Case # 2014-27.

*Applicant was represented by: Matthew King, petitioner and owner.*

*There was no public comment.*

***The Board voted 5-0-0 to grant the Variance for the side setback, with conditions, on a motion made by Phil Straight and seconded by Tony Pellegrino.***

8. **Roland Paradis and Hawthorne Suites by Wyndham Hotel Group (petitioners) and 246 DW Hwy BACM (owner)** – Variance under Section 17.10.3(b) of the Zoning Ordinance to allow a ground sign 13 ft. from the front property line whereas 20 ft. is required. The parcel is located at 246 D.W. Hwy in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 005-01. Case # 2014-28.

***Applicant was represented by: Roland Paradis, petitioner.***

***There was no public comment.***

***The Board voted 5-0-0 to grant the Variance for the ground sign front setback, on a motion made by Tony Pellegrino and seconded by Richard Conescu.***

9. **Roland Paradis and Hawthorne Suites by Wyndham Hotel Group (petitioners) and 246 DW Hwy BACM (owner)** – Variance under Section 17.10.3 of the Zoning Ordinance to allow a 59.16 sf. ground sign whereas 48 sf. is permitted. The parcel is located at 246 D.W. Hwy in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 005-01. Case # 2014-29.

***Applicant was represented by: Roland Paradis, petitioner.***

***There was no public comment.***

***The Board voted 5-0-0 to grant the Variance for the 59.16 sf ground sign, on a motion made by Richard Conescu and seconded by Leonard Worster.***

10. **Roland Paradis and Hawthorne Suites by Wyndham Hotel Group (petitioners) and 246 DW Hwy BACM (owner)** – Variance under Section 17.10.3 of the Zoning Ordinance to allow a 121.15 sf. freestanding sign whereas 48 sf. is permitted. The parcel is located at 246 D.W. Hwy in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 005-01. Case # 2014-30.

***Applicant was represented by: Roland Paradis, petitioner.***

***There was no public comment.***

***The Board voted 5-0-0 to grant the Variance for the 121.15 sf freestanding sign, on a motion made by Leonard Worster and seconded by Richard Conescu.***

11. **Roland Paradis and Hawthorne Suites by Wyndham Hotel Group (petitioners) and 246 DW Hwy BACM (owner)** – Variance under Section 17.10.4(b) of the Zoning Ordinance to allow a 259.81 sf. wall sign whereas 30 sf. is permitted. The parcel is located at 246 D.W. Hwy in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-2, Lot 005-01. Case # 2014-31.

***Applicant was represented by: Roland Paradis, petitioner.***

***There was no public comment.***

***The Board voted 4-1-0 to grant the Variance for the 259.81 sf wall sign, on a motion made by Richard Conescu and seconded by Leonard Worster. Phil Straight voted in the negative.***

14. **Discussion/possible action regarding other items of concern.**

*Discussion only.*

**15. Approval of Minutes – June 25, 2014.**

*The minutes of June 25, 2014, were approved, as submitted, by a vote of 3-0-2, on a motion made by Richard Conescu and seconded by Phil Straight. Fran L'Heureux and Tony Pellegrino abstained.*

**16. Adjourn.**

*The meeting adjourned at 10:55 p.m., by a vote of 5-0-0, on a motion made by Tony Pellegrino and seconded by Richard Conescu.*